

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

09CV9951
Sweet

PLAINTIFFS

Dennis Smith, on behalf of himself, the Savings Plan and all others Similarly Situated

DEFENDANTS

Delta Air Lines, Inc.

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Michael S. Elkin, Esq. & Ira M. Levee, Esq.
Lowenstein Sandler PC
1251 Avenue of the Americas, New York, NY 10020
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ATTORNEYS (IF KNOWN)

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CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 U.S.C. Section 158; Appeal of Bankruptcy Order

Has this or a similar case been previously filed in SDNY at any time? No? ☒ Yes? ☐ Judge Previously Assigned

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date & Case No.

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

05-17923 #7469

TORTS

ACTIONS UNDER STATUTES

CONTRACT

- [] 110 INSURANCE
- [] 120 MARINE
- [] 130 MILLER ACT
- [] 140 NEGOTIABLE INSTRUMENT
- [] 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- [] 151 MEDICARE ACT
- [] 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)
- [] 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS
- [] 160 STOCKHOLDERS SUITS
- [] 190 OTHER CONTRACT
- [] 195 CONTRACT PRODUCT LIABILITY
- [] 196 FRANCHISE

REAL PROPERTY

- [] 210 LAND CONDEMNATION
- [] 220 FORECLOSURE
- [] 230 RENT LEASE & EJECTMENT
- [] 240 TORTS TO LAND
- [] 245 TORT PRODUCT LIABILITY
- [] 290 ALL OTHER REAL PROPERTY

PERSONAL INJURY

- [] 310 AIRPLANE
- [] 315 AIRPLANE PRODUCT LIABILITY
- [] 320 ASSAULT, LIBEL & SLANDER
- [] 330 FEDERAL EMPLOYERS' LIABILITY
- [] 340 MARINE
- [] 345 MARINE PRODUCT LIABILITY
- [] 350 MOTOR VEHICLE
- [] 355 MOTOR VEHICLE PRODUCT LIABILITY
- [] 360 OTHER PERSONAL INJURY

ACTIONS UNDER STATUTES

CIVIL RIGHTS

- [] 441 VOTING
- [] 442 EMPLOYMENT
- [] 443 HOUSING/ ACCOMMODATIONS
- [] 444 WELFARE
- [] 445 AMERICANS WITH DISABILITIES - EMPLOYMENT
- [] 446 AMERICANS WITH DISABILITIES - OTHER
- [] 440 OTHER CIVIL RIGHTS

PERSONAL INJURY

- [] 362 PERSONAL INJURY - MED MALPRACTICE
- [] 365 PERSONAL INJURY PRODUCT LIABILITY
- [] 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY
- [] 370 OTHER FRAUD
- [] 371 TRUTH IN LENDING
- [] 380 OTHER PERSONAL PROPERTY DAMAGE
- [] 385 PROPERTY DAMAGE PRODUCT LIABILITY

PRISONER PETITIONS

- [] 510 MOTIONS TO VACATE SENTENCE
- [] 530 HABEAS CORPUS
- [] 535 DEATH PENALTY
- [] 540 MANDAMUS & OTHER
- [] 550 CIVIL RIGHTS
- [] 555 PRISON CONDITION

FORFEITURE/PENALTY

- [] 610 AGRICULTURE
- [] 620 OTHER FOOD & DRUG
- [] 625 DRUG RELATED SEIZURE OF PROPERTY
- [] 630 LIQUOR LAWS
- [] 640 RR & TRUCK
- [] 650 AIRLINE REGS
- [] 660 OCCUPATIONAL SAFETY/HEALTH
- [] 690 OTHER

LABOR

- [] 710 FAIR LABOR STANDARDS ACT
- [] 720 LABOR/MGMT RELATIONS
- [] 730 LABOR/MGMT REPORTING & DISCLOSURE ACT
- [] 740 RAILWAY LABOR ACT
- [] 790 OTHER LABOR LITIGATION
- [] 791 EMPL RET INC SECURITY ACT

IMMIGRATION

- [] 462 NATURALIZATION APPLICATION
- [] 463 HABEAS CORPUS- ALIEN DETAINEE
- [] 465 OTHER IMMIGRATION ACTIONS

BANKRUPTCY

- [x] 422 APPEAL
- [] 28 USC 158
- [] 423 WITHDRAWAL
- [] 28 USC 157

PROPERTY RIGHTS

- [] 820 COPYRIGHTS
- [] 830 PATENT
- [] 840 TRADEMARK

SOCIAL SECURITY

- [] 861 HIA (1395ff)
- [] 862 BLACK LUNG (923)
- [] 863 DIWC/DIWW (405(g))
- [] 864 SSID TITLE XVI
- [] 865 RSI (405(g))

FEDERAL TAX SUITS

- [] 870 TAXES (U.S. Plaintiff or Defendant)
- [] 871 IRS-THIRD PARTY
- [] 26 USC 7609

OTHER STATUTES

- [] 400 STATE REAPPORTIONMENT
- [] 410 ANTITRUST
- [] 430 BANKS & BANKING
- [] 450 COMMERCE
- [] 460 DEPORTATION
- [] 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)
- [] 480 CONSUMER CREDIT
- [] 490 CABLE/SATELLITE TV
- [] 810 SELECTIVE SERVICE
- [] 850 SECURITIES/ COMMODITIES/ EXCHANGE
- [] 875 CUSTOMER CHALLENGE
- [] 12 USC 3410
- [] 890 OTHER STATUTORY ACTIONS
- [] 891 AGRICULTURAL ACTS
- [] 892 ECONOMIC STABILIZATION ACT
- [] 893 ENVIRONMENTAL MATTERS
- [] 894 ENERGY
- [] 895 FREEDOM OF INFORMATION ACT
- [] 900 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE
- [] 950 CONSTITUTIONALITY OF STATE STATUTES

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND \$ OTHER JUDGE DOCKET NUMBER

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☒ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- ☒ 1 Original Proceeding ☐ 2a. Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from (Specify District) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- ☐ 2b. Removed from State Court AND at least one party is pro se.

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

IF DIVERSITY, INDICATE
CITIZENSHIP BELOW.
(28 USC 1322, 1441)

- ☐ 1 U.S. PLAINTIFF ☐ 2 U.S. DEFENDANT ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY) ☐ 4 DIVERSITY

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF [] 1 [] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [] 3 [] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [] 5 [] 5
CITIZEN OF ANOTHER STATE	[] 2 [] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[] 4 [] 4	FOREIGN NATION	[] 6 [] 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ MANHATTAN
(DO NOT check either box if this a PRISONER PETITION.)

DATE 11/06/09 SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

[] NO

☒ YES (DATE ADMITTED Mo. _____ Yr. 1979)

Attorney Bar Code #221754

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

J. Michael McMahon, Clerk of Court by _____ Deputy Clerk, DATED _____

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)